

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.26580 of 2016
and
W.M.P.No.22771 of 2016

R.Sheik

...Petitioner

Vs

1.The Commissioner,
Kancheepuram Municipality,
Kancheepuram.

2.U.Harikrishnan,
Advocate,
No.8, Kasikkara Street,
Cheyyar - 604 407

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction, particularly in the nature of Writ of Certiorari, to call for the records connected with the proceedings issued in Na.Ka.No.11099/2012/H1 dated 04.07.2016 passed by the 1st Respondent herein and quash the same.

For Petitioner :Mr.R.Naresh Kumar

For Respondents:Mr.G.B.Rajesh for R1

Mr.K.G.Senthilkumar for R2

O R D E R

The order passed by the 1st respondent in proceedings dated 04.07.2016 in respect of the recovery of salary, pursuant to the orders passed in E.P.No.43 of 2013 is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was initially appointed as Sanitary Worker in Vandavasi Municipality and further promoted to the post of Sanitary Supervisor. The petitioner borrowed some amount and not repaid the same. The aggrieved person filed the Suit in O.S.No.244 of 2007 and a decree is in favour of one, Mr.Muthu reddy, was passed by the Civil Court. Subsequently, the execution proceedings in E.P.No.43 of 2013 had been filed and accordingly, the Civil

Court passed an order of attachment of salary of the writ petitioner. The order of attachment had been served to the 1st respondent and the 1st respondent had acted based on the orders passed by the competent Civil Court of Law. It is the duty of the authorities to implement the orders of the Court scrupulously.

3. Article 261 of the Constitution of India deals with Public acts, records and judicial proceedings. Article 261(3) enumerates that "Final judgments or orders delivered or passed by Civil Courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law."

4. Thus, the Constitution itself provides implementation of the Civil Court orders by all concerned. Thus, the 1st respondent being a State, is duty bound to implement the orders passed by the Civil Court and there cannot be any deviation in this regard. Admittedly, the impugned order of recovery has been issued pursuant to the orders passed in execution proceedings filed in E.P.No.43 of 2013. Since the impugned order is nothing but the implementation of the execution proceedings, there is no infirmity as such in respect of the impugned order. If the writ petitioner is aggrieved from and out of the execution proceedings order, then it is for him to approach the appropriate Appellate forum in the manner known to law. Admittedly, no such proceedings are pending or orders are obtained from the higher forum. Under these circumstances, the impugned order of recovery issued by the 1st respondent is in accordance with law and in consonance with the constitutional provisions. Accordingly, the writ petitioner has failed to establish any permissible grounds, so as to consider the relief as such sought for in this writ petition.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

WEB COPY

Sub Assistant Registrar

kak

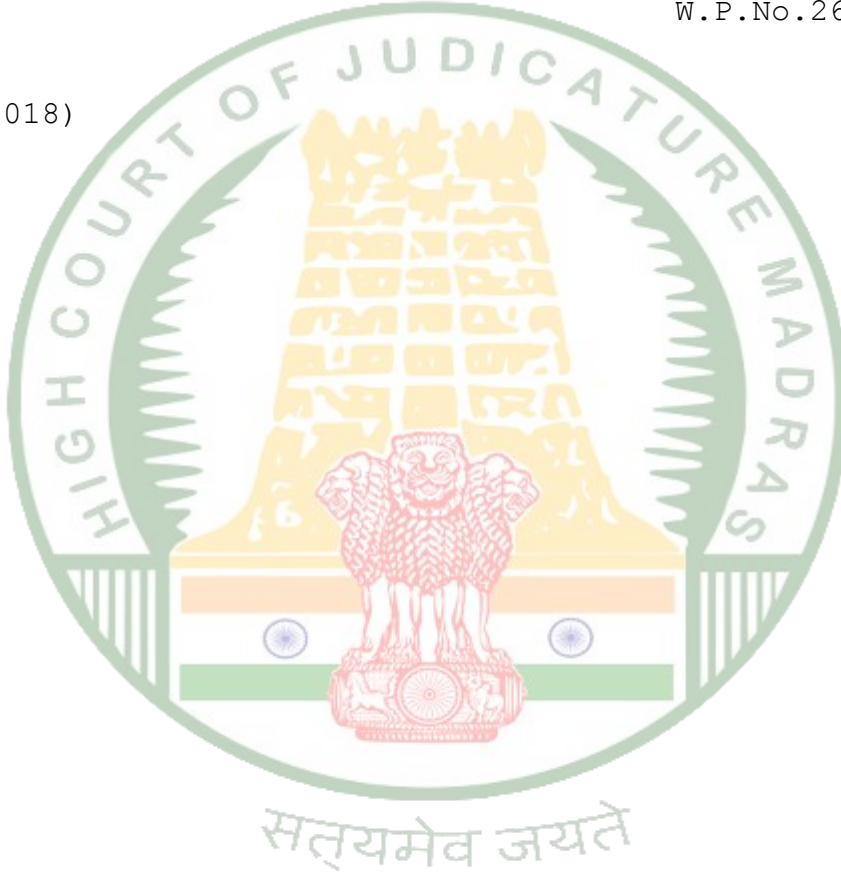
To

The Commissioner,
Kancheepuram Municipality,
Kancheepuram.

+1cc to Mr.S.ILAMVALUDHI, Advocate, S.R.No.36560
+1cc to Mr.K.G.SENTHILKUMAR, Advocate, S.R.No.36560
+1cc to Mr.G.B.RAJESH, Advocate, S.R.No. 36933

W.P.No.26580 of 2016

RV(CO)
TR(21/06/2018)



WEB COPY